IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23785 of 2004

Between:

D. Rajanna, S/o D. Narayana Rao,
C/o K. Venkata Narayana, D.No. 1-33-2G1, Kadiri, Anantapur District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or orders or direction more particularly one in the nature of writ of Mandamus declaring the action of the penalty vide Proceedings No. 02/95(32)02 KDR dated 23-5-2002 without conducting enquiry as illegal, arbitrary, unjustified, unsustainable, contrary to law in violation of principles of natural justice and violative of Article 14 and 21 of the constitution of India and set-aside the same and consequently direct the respondent to add two annual increments to the pay of the petitioner and pass such other and further order or orders,

Counsel for the Petitioner: MR.P.VARA PRASAD RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court made the following:

ORAL ORDER:

The case of the petitioner is that he was appointed as Conductor in the respondent-Corporation in the year 1992. On 17.2.2002, while the petitioner was performing his duty on Bus bearing No.2421 on route Kadiri – N.P.Kunta, a check was made by the checking officials, who found certain cash and ticket irregularities committed by the petitioner. Subsequently, the respondent-Corporation issued a charge sheet, dated 14.3.2002 to the petitioner, for which he gave explanation on 15.5.2002. On the basis of the explanation submitted by the petitioner, the first respondent passed a final order on 23.5.2002 imposing penalty of deferment of annual increments for a period of two years, which shall have effect on his future increments. Aggrieved by the same, the petitioner has filed this writ petition.

The learned counsel for the petitioner has contended that major penalty cannot be imposed without conducting any enquiry and therefore, he prays to modify the penalty imposed on the petitioner since the incident took place in the year 2002.

The learned standing counsel for the respondents has opposed the same and submitted that there are no grounds to interfere with the findings given by the lower authorities.

The incident took place in the year 2002, wherein, the respondent found that the petitioner committed certain cash and ticket irregularities. Therefore, the respondent called for explanation of the petitioner and having not been satisfied with the explanation offered by the petitioner, he imposed a major penalty of deferment of two increments with cumulative effect by proceedings dated 23.5.2002. There cannot be any dispute that imposing penalty of stoppage of

two increments with cumulative effect is a major penalty, which cannot be imposed without conducting regular departmental enquiry. Admittedly, in this case, no such departmental enquiry was conducted. Though the matter can be remitted to the first respondent, but under the peculiar facts and circumstances of the case, as the incident took place about two years back, it is not desirable to remit the matter again, and perhaps that is the reason why the learned counsel for the petitioner has requested this Court to impose minor penalty instead of major penalty.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of two increments with cumulative effect, imposed by the respondent can be reduced with slight modification. Therefore, the order of punishment, dated 23.5.2002 is modified as deferment of two increments without cumulative effect.

With the above modification, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

21st December, 2004.

bcj

To

1. The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Anantapur District.

2. Two C.D. copies